



2. Attached as Exhibit “A” is a copy of the October 25, 2018 letter and enclosure that I served upon the defendants.

3. Attached as Exhibit “B” is a copy of a letter from TD Bank that I received on December 26, 2018.

4. Attached as Exhibit “C” are copies of checks contained in TD Bank’s document production I received on December 26, 2018. These checks are the first indication that NextGear received which shows Paul Gutierrez personally profited from participating in his brother’s misappropriation scheme.

5. Attached as Exhibit “D” are copies of document subpoenas that remain outstanding regarding the issue of Paul Gutierrez’s receipt of funds from his brother’s company, The Luxury Haus, Inc.

6. Attached as Exhibit “E” is a copy of a certification of Antonio Gutierrez’s wife, Edith Gutierrez, that was filed in the New Jersey Action.<sup>1</sup>

7. Attached as Exhibit “F” is a copy of a final restraining order that Edith Gutierrez filed as part of a pleading in the New Jersey Action.

8. Attached as Exhibit “G” is a full copy of NextGear’s Motion to Enforce Settlement filed in the New Jersey Action.

9. In their communications with me on October 31, 2018, Paul Gutierrez nor his attorney, Borce Martinoski, indicated that an extension was being sought on behalf of Antonio Gutierrez.

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<sup>1</sup> The term “the New Jersey Action” shall have the same meaning here as in NextGear’s opposition brief.

10. As a consequence, when I filed for the entry of default against Antonio Gutierrez, I had received no information that Antonio Gutierrez was contesting the allegations contained in NextGear's complaint pending in this district and was forced to assume that he was not opposing NextGear's requested relief.

11. I discovered the existence of the deeds attached as Exhibits "M" and "N" to NextGear's Complaint on May 8, 2018 by conducting property searches of the Monroe County land records. May 8, 2018 was the first day that NextGear was aware of the existence of the deeds attached as Exhibit "M" and "N" to its current complaint.

Pursuant to 28 *U.S.C.* § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: /s/ Nicholas M. Gaunce  
Nicholas M. Gaunce

Dated: January 4, 2019